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May 22, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

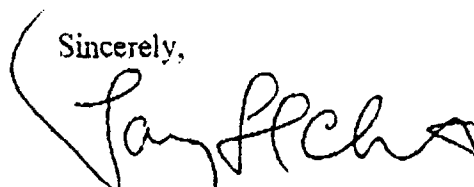
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear staff:

Enclosed is and original and nine copies of the "Comments of Larry L. Schrecongost, Licensee of WLLS-LP, Indiana, Pennsylvania", for FCC Rule Making proceeding RM-9260, being a Petition for Rulemaking filed by the Community Broadcasters Association.

Please include the attached comments into the proceeding.

Sincerely,



Larry L. Schrecongost

Licensee of WLLS-LP
Indiana, PA.

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of:

Advanced Television Systems and)	
Their Impact upon the Existing)	
Television Broadcast Service)	RM-9260
)	
Petition for Rulemaking and Amendment to)	
Petition for Rulemaking filed by the)	
Community Broadcasters Association)	

**COMMENTS OF LARRY L. SCHRECONGOST
LICENSEE OF WLLS-LP, INDIANA, PENNSYLVANIA**

1. The Commission has before it, a Petition for Rulemaking and an Amendment thereto (together, the "Petition"), filed by the Community Broadcasters Association ("CBA"). The Petition seeks the adoption of a set of Rules to create a new "Class A" television station. While being generally supportive of the efforts of the CBA to elevate Low Power Television stations to a form of primary status, WLLS-LP, nonetheless, wishes to offer additional comments and insight into this proceeding.

Filing Fees

2. The CBA Petition at para. 3 states, that . . . "A substantial filing fee is provided to discourage applications by those who are not seriously prepared to meet the obligations

imposed on the new class of station,” and concludes in its footnote that . . . “the filing fee for conversion to Class A status would be the same as the filing fee for an application for construction permit for a new full power television station (emphasis added).”

3. WLLS-LP differs with CBA’s position in this regard. WLLS-LP believes that Commission Rules already provide substantial disincentive--notably revocation of license--to an LPTV operator who would engage in such lack of candor or misrepresentation potential as alluded to by the CBA. The imposition of a substantial filing fee clearly should not be used as a safeguard against frivolous applications or sham ownership because “Class A” status should never be viewed as a service to be bought into through excessive regulatory fees. WLLS-LP believes that the focus on the hurdle to “Class A” qualification, more importantly, should lie with local programming requirements and service to the public, and not by the imposition of a fee so substantial that it be identical to that apparently required of initial Form 301 full power commercial television applicants.

4. Presently, the filing fee for an LPTV construction permit (FCC fee code MOL) is \$520. The filing fee for a new full power commercial television construction permit (FCC fee code MVT) is \$3080. WLLS-LP proposes that for fee purposes, in accepting LPTV “Class A” petitions, the Commission should impose individual commercial LPTV upgrade requests with a fee no greater than that of a full power commercial television licensee who is seeking a minor change in its facilities. Presently this fee is \$690 (FCC fee code MPT).

5. Importantly, because of how “Class A” stations will likely be defined, any minor change in facilities request by a full power commercial television licensee will always be superior to the facilities requested by any LPTV operator desiring to upgrade his facilities to “Class A” service. Because pre-existing local programming will likely be a requirement for “Class A” applicants, the LPTV operator will necessarily already be a licensee of the Commission--like the full power licensee desiring to modify its facilities--and, consequently, should not be faced with an improperly weighted fee structure.

Regulatory Fees

6. The CBA Petition fails to point out that the Commission must also codify an annual regulatory fee category for "Class A" stations that is sensitive to the real distinction between "Class A" stations and full power stations. Of greater concern to WLLS-LP, than the Form 301 application fees for "Class A" eligibility, is the existing annual regulatory fee structure for full power stations. If the full power annual regulatory fees are to be applied, then these regulatory fees have the potential to eliminate "Class A" attainment.

7. The Commission must recognize the distinction between the two classes of stations in terms of financial ability. On the one hand, there are full power stations who have full advantage of being long-established, are usually major network-affiliates, have DMA-wide must-carry cable carriage rights, and enjoy full revenue potential of an entire DMA. On the other hand, LPTV operators are typically new to the market, struggle with independent programming, have undergone enormous recent start-up expense, are generally excluded from cable carriage, broadcast at substantially weaker power levels, and have not received second channel digital allotments as have their full power counterparts.

8. Importantly, this proceeding defines LPTV broadcasters as small businesses. WLLS-LP is concerned that if the annual regulatory fees for "Class A" licensees were identical to those of full power broadcasters, as a misunderstanding of an extension of the CBA language might suggest, few, *if any*, LPTV broadcasters would be able to upgrade. WLLS-LP, channel 49, for example, is in the Pittsburgh DMA, where the annual regulatory fee for a commercial full power UHF broadcaster (markets 11-25) presently is \$13,475. WLLS-LP's grades A and B contours lie almost entirely in Indiana and Armstrong Counties, rural counties which help comprise the Pittsburgh DMA, yet, these two counties are outside the top 160 SMA's.

9. WLLS-LP--whether as an existing LPTV or a potential "Class A" broadcaster--serves a small portion of the Pittsburgh DMA, and is, in fact, located in the rural fringe area of that DMA. Such a steep annual regulatory fee would absolutely prohibit WLLS-LP from seeking the

"Class A" status it so desperately needs in order that it may continue to exist and be protected as a broadcast entity. And WLLS-LP is typical of nearly all LPTV operators.

10. Currently, the annual regulatory fee for an LPTV broadcaster is \$220. This fee is not based on the sizing of the marketplace in which an LPTV operates. The lowest annual regulatory fee paid by any full power broadcaster is presently \$1350. Accordingly, based upon the present annual regulatory fee structure, WLLS-LP believes that a new "Class A" regulatory fee category should lie somewhere between \$220 and \$1350. Such a reasoned figure more realistically reflects the distinction that would continue to exist between the elevated LPTV operator and the full power broadcaster. Clearly, the Commission must not impose economic hurdles that would amount to financial discrimination and would only serve to halt the programming benefits that would flow to the public by adoption of a "Class A" television service. In the event substantial fees are imposed to attain "Class A" status, this proceeding would then amount to little more than a concert performance where no one attends.

Programming Eligibility Requirement

11. Further, WLLS-LP believes that a reasonable qualifying programming threshold for "Class A" eligibility is *an average* of 3 hours per calendar week. The three-hour minimum should be fairly consistent. However, WLLS-LP believes that slight averaging ability should be tolerated to allow for unusual and special circumstances such as unexpected plant mechanical and equipment problems, weather-related situations, such as the last minute cancellation of an outdoor event scheduled for broadcast, or even for a guest who fails to show for a Saturday evening program.

12. WLLS-LP has three part time employees. And with such a small work force, licensee ability to produce or broadcast three hours of continuous weekly qualifying programming is more substantially impacted when an employee is sick or on vacation than it would be where there are scores or hundreds of employees, such as the staff levels found at full

power stations, where the absence of one staff person would likely not be felt at all. WLLS-LP believes that its relatively small staff size is quite common to the LPTV industry and that a slight averaging ability is therefore necessary. With slight averaging ability, it is anticipated that, when called upon, a licensee should be permitted to protect the stability of his license by documenting the reasonableness of his qualifying programming compliance by showing substantial average compliance over a period of time.

13. Licensee stability should not be challenged or threatened, for example, in providing only 2.5 hours in qualifying programming during one calendar week, when both prior and subsequent adjacent calendar week programming might show actual qualifying programming well beyond a 3-hour threshold in their respective calendar weeks. This averaging practice is already extended to full power broadcasters in areas such as required children's programming.

14. WLLS-LP proposes that a special computational programming incentive credit should be extended to a licensee who would work with bona fide educational institutions in his license area to develop certain locally produced programming. This would encourage licensees to develop quality local programming that is otherwise largely not available and would help bring television and electronic media to the schools and classrooms.

15. If a licensee airs, or helps develop local programming, that *both*, matches any curriculum or school programs offered at that local educational institution *and* includes the participation of students of that institution, then a special double computational credit should be extended to that licensee. Thus, such a thirty minute program featuring local high school debaters, or a thirty minute local university broadcast enhancing an understanding of foreign language and cultural diversity, for instance, would each receive a credit of one hour toward "Class A" qualifying program requirements.

16. WLLS-LP likewise believes that any requirement that "Class A" qualifying programming be produced within the confines of the principal city contour of the station is too

restrictive and not in the public interest. In the case of WLLS-LP, transmitting from within Indiana County, PA., and licensed to Indiana, PA., it is likely that television coverage of many of the events occurring within Indiana county would be discouraged because they actually fall outside the WLLS-LP principal city contour. (Yet who would question the relevancy to the public within the more limited WLLS-LP principal city contour of the significance to them of the goings on within the greater Indiana county area?)

17. In high school sports, local teams routinely travel fifty miles to play opposing teams. These "away" games are difficult for the elderly, the disabled and financially handicapped to attend. Yet, WLLS-LP would be discouraged from airing any away game because, under the proposed scenario, no away contest setting would fall within the confines of its principal city contour and, although important to our viewers, would not count for "Class A" computational purposes under the CBA plan.

18. In yet another example, Indiana, PA., WLLS-LP's city of license, is located within the Pennsylvania 41st Senatorial and 12th Congressional political districts. These districts extend as much as fifty miles beyond the WLLS-LP principal city contour. WLLS-LP would be discouraged from devoting air time to the coverage of much of the political news and debates of vital interest to our immediate viewers because they would not count for "Class A" computational purposes, if the more limiting principal city contour were used as the standard advanced in the CBA Petition. Moreover, on a more localized political district level, it may be likely that the seat of county government for the county that an LPTV is licensed within is entirely outside the principal city contours of 73.683(a) and 73.625(a)(1), the threshold advanced by the CBA.

19. WLLS-LP believes that its situation is not unique as an LPTV broadcaster and submits that a reasonable qualifying threshold for "Class A" status should be *the broadcast of not less than the average of 3 hours in each calendar week of programming produced within 50 miles of the transmitter of a station.*


73.3555 Multiple Ownership Restrictions

20. WLLS-LP supports the conclusion by the CBA that the multiple ownership restrictions of Section 73.3555 of the Commission's Rules should not apply to "Class A" stations. Coverage of "Class A" stations will be substantially less than full power station, thus, cross-ownership and multiple ownership raise far fewer adverse implications for the diversity of ideas.

Conclusion

21. In conclusion, WLLS-LP lauds CBA for its efforts to petition the Commission for "Class A" status. And although WLLS-LP comments and seeks further clarification on a few points, it supports CBA's Petition. WLLS-LP requests that the Commission look favorably upon the Petition, but, incorporate the comments expressed herein that are inconsistent with the CBA Petition, and grant a new "Class A" status to eligible LPTV broadcasters, thusly preserving and enhancing a multitude of broadcast voices across our country.

Respectfully submitted,



Larry L. Schrecongost

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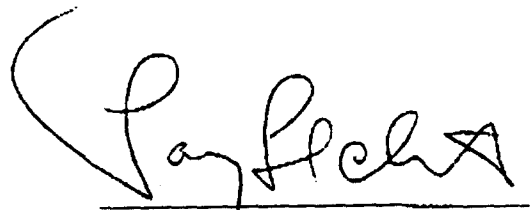
May 22, 1998

CERTIFICATE OF SERVICE

I, Larry L. Schrecongost, do hereby certify that I have, this 22nd day of May, 1998, caused copies of the foregoing "Comments of Larry L. Schrecongost Licensee of WJLS-LP" to be sent via first class mail to the following parties:

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